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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,953	03/30/2001	Kenneth William Willman	7973MR	3897

27752 7590 01/29/2004

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EXAMINER

PIERCE, JEREMY R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/821,953

Applicant(s)

WILLMAN ET AL.

ed

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 38-63 is/are pending in the application.
- 4a) Of the above claim(s) 61-63 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 38-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 38-60, drawn to a cleaning sheet, classified in class 442, subclass 100.
 - II. Claims 61-63, drawn to a cleaning implement, classified in class 15, subclass various.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as mutually exclusive species in an intermediate-final product relationship. Distinctness is proven for claims in this relationship if the intermediate product is useful to make other than the final product (MPEP § 806.04(b), 3rd paragraph), and the species are patentably distinct (MPEP § 806.04(h)). In the instant case, the intermediate product is deemed to be useful as a hand-wiping sheet and the inventions are deemed patentably distinct since there is nothing on this record to show them to be obvious variants. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions anticipated by the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Thibault Fayette on January 21, 2004 a provisional election was made without traverse to prosecute the invention of Group I, claims 38-60. Affirmation of this election must be made by applicant in replying to this Office action. Claims 61-63 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
6. Claim 48 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is not clear whether "block copolymers containing" is meant to modify only the first set of polymers or all of the polymers listed in the claim. Does the block copolymer limitation modify the polyolefins, as well as the polystyrene endblocks?

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 38-41 and 58 are rejected under 35 U.S.C. 102(b) as being anticipated by Metrick (U.S. Patent No. 5,198,293).

Metrick discloses a cleaning cloth comprising impregnated with pressure sensitive adhesive and tackifier (Abstract). In the example, Metrick discloses a 50 gsy web is impregnated with the polymer to a finished weight of 55 gsy (column 4, line 60 – column 5, line 7). The addition of the adhesive and tackifier would be 5 gsy, which equals about 6 gsm. There is approximately a 3:1 ratio of adhesive to tackifier (see column 5, line 1). With regard to claims 38 and 39, the adhesive would be present in an amount of about 4.5 gsm. With regard to claims 38-40 and 50, the tackifier would be present in an amount of about 1.5 gsm throughout the entire sheet.

Claim Rejections - 35 USC § 102/103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 43-47, 50-52, 55, 59, and 60 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Metrick.

With regard to claims 43-47, 50-52, 55, 59, and 60, Metrick fails to disclose the Adhesive Work Value, Tack Value, Cohesive/Adhesive Ratio, and Stringiness Value of

the cleaning sheet. Although Metrick does not explicitly teach the property limitations mentioned, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. substrate with pressure sensitive adhesive and tackifier) and in the similar production steps (i.e. impregnation within the claimed amount) used to produce the cleaning sheet. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. In the alternative, adjusting the amount of polymer material in the substrate would obviously have provided the claimed properties. The amount of tacky polymer used would be a result effective variable that when adjusted, would affect Applicant's claimed resulting properties. It would have been obvious to a person having ordinary skill in the art at the time of the invention to adjust the amount of polymer present in the cleaning sheet in order to optimize the sheet to the claimed properties, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Note *In re Best*, 195 USPQ 433, footnote 4 (CCPA 1977) as to the providing of this rejection under 35 USC 103 in addition to the rejection made above under 35 USC 102.

Claim Rejections - 35 USC § 103

11. Claims 38-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerner et al. (U.S. Patent No. 5,198,292) in view of Metrick.

Lerner et al. disclose a cleaning cloth comprising pressure sensitive adhesive and tackifier (Abstract). Lerner et al. disclose the amount of polymer material, based on

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the dry fabric weight, may vary between 3 and 50% depending on the desired end use (column 8, lines 19-23). But these percentages cannot immediately be put into a basis weight value of gsm units because Lerner et al. fail to disclose the weight of the cloth. However, the Lerner et al. patent is a continuation-in-part of the Metrick patent, and refers to the Metrick patent when disclosing the structure of the cloth (column 4, lines 60-64). It would have been obvious to a person having ordinary skill in the art at the time of the invention to use the 50 gsy fabric of Metrick when practicing the invention of Lerner et al., since Lerner et al. refers to the Metrick reference when discussing the structure of the substrate in order to provide a cloth material that is useful in creating a cleaning sheet, as taught by Metrick. Applying between 3 and 50% by weight of polymer material to a 50 gsy cloth would provide polymeric additive (this includes either the pressure sensitive adhesive by itself, the tackifier by itself, or the combination of the two together) in an amount between 0.5 and 4.0 gsm. With regard to claims 42, 56, and 57, Lerner et al. disclose using polyisobutylene (column 6, line 54). With regard to claims 43-47, 50-52, 55, 59, and 60, Lerner et al. fail to disclose the Adhesive Work Value, Tack Value, Cohesive/Adhesive Ratio, and Stringiness Value of the cleaning sheet. Although Lerner et al. do not explicitly teach these property limitations, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. substrate with pressure sensitive adhesive and tackifier) and in the similar production steps (i.e. impregnation within the claimed amount) used to produce the cleaning sheet. The burden is upon the Applicant to prove otherwise. In the alternative, adjusting the amount of polymer

material in the substrate would obviously have provided the claimed properties. The amount of tacky polymer used would be a result effective variable that when adjusted, would affect Applicant's claimed resulting properties. It would have been obvious to a person having ordinary skill in the art at the time of the invention to adjust the amount of polymer present in the cleaning sheet in order to optimize the sheet to the claimed properties, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. With regard to claims 48 and 49, Lerner et al. disclose various pressure sensitive adhesives, including styrene butadiene rubber and acrylic polymers (column 7, lines 3-42). With regard to claim 53, although Lerner et al. does not disclose the glass transition temperature of the tacky polymer, it is reasonable to presume that said limitations are inherent because Lerner et al. disclose the same class of tacky polymers (column 6, lines 28-62) that Applicants claim (claim 56). The burden is upon the Applicant to prove otherwise. In the alternative, adjusting the glass transition temperature of the polymer would be adjusting a result effective variable, affecting the tackiness of the polymer. It would have been obvious to a person having ordinary skill in the art at the time of the invention to adjust the glass transition temperature of the polymer in order to optimize the tack properties, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. With regard to claim 54, Lerner et al. discloses the tackifier to have a molecular weight less than 30,000 (column 6, line 32). With regard to claim 58, a sheet impregnated uniformly in an amount of between 0.1 and 1.5 gsm would met the zone of adhesive limitations.

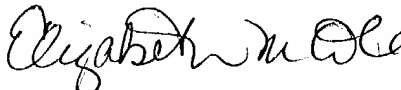
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (571) 272-1479. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0994.

JRP
JRP


ELIZABETH M. COLE
PRIMARY EXAMINER